



Nebraska Sales and Use Tax

Construction Contractor 2013

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Departmental training staff.*

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Today's Agenda

- Overview of Sales and Use tax
- Contractor Database
- State Agency Information Sharing
- Contractor Terms
- Contractor Option Transactions
- Contracts with Exempt Entities
- Building Materials and Fixtures for a Job Site Outside Nebraska
- Repair/Annexation of Exempt MME

Overview of Sales and Use Tax

What is a Sales Transaction?

- Sales tax is calculated on the gross receipts.
- Delivery location determines the rate of local tax.
- Retailers must collect and report sales tax or document why they didn't.

Taxable Services

- Animal specialty services
- Building cleaning
- Computer software training
- Detective services
- Installing/applying tangible personal property
- Motor vehicle towing, washing/waxing, painting
- Pest control services
- Recreational vehicle (RV) park services
- Security services
- Repair labor (with 5 exceptions)

For a complete list of taxable and nontaxable services, see the [Nebraska and Local Sales Tax Information Guide](#) on our website.

What is Use Tax?

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are not both due on the same transaction.
- The big difference is who remits the tax –
 - Sales tax is collected and remitted by the seller.
 - Use tax is paid directly to the department by the purchaser/consumer.

Use Tax and Sales Tax Have These Things in Common -

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
 - Where delivery occurs, or
 - Where first usage in Nebraska takes place.

Contractor Database

- Every construction contractor making payment to a subcontractor must withhold 5%;
- Unless the subcontractor is registered in the Department of Labor's Contractor Registration Database.

- A single definition of “contractor” is used for purposes of the Contractor Registration Act and construction contractor withholding. (This definition is slightly different than the sales and use tax definition of a contractor.)
- A centralized registration system is used for construction contractors.
- The Department of Labor administers the [Contractor Database](#).

State Agency Information Sharing

Employee Classification Act

LB 563

- Departments of Labor and Revenue.
- Labor will review whether workers are employees (Form W-2) or independent contractors (Form 1099).
- Revenue will review referrals from the Department of Labor.

LB 563 applies only to construction contractors and delivery companies.

Contractor Terms

Contractor Terms

- Construction Contractor
- Contractor Labor
- Building Materials
- Fixtures
- Contractor Options

For more information on Contractors, see [Reg-1-017](#).

Construction Contractor

- Makes repairs or improvements to real estate or items annexed to real estate.
- Arranges for annexation

Examples you may not have thought about –

- Landscapers who build or repair retaining walls.
- Interior designers who arrange for construction work to be done (hanging wallpaper).
- Providers of restoration services to real estate.

Contractor Labor

- Annexing building materials to real estate.
- Repair of a structure.
- Repair of building materials that are or will be annexed to real estate.

Example: Hanging drywall.

Charges for contractor labor
are not taxable.

Contractor Labor

- If you install telephone, cable, or satellite television, or
- perform work for a telephone, cable, or satellite company...

...there are specific sales and use tax regulations governing the taxability of these projects.

Building Materials

- Property (including fixtures) that will be annexed to real estate or to an improvement on real estate (see [Reg-1-017-02](#)).
- **Does not include:**
 - Tools;
 - Equipment;
 - Supplies; or
 - Other items not annexed.

Example: Rebar embedded in concrete is a building material. Form lumber is not.

Fixtures

- Equipment that must be annexed to a building or structure so that it can properly function.
- Fixtures remain identifiable as a separate item.

Example: Water heater.

Contractor Options

- Contractor options apply only to construction contractor projects.
- Option chosen determines:
 - How sales and use tax is paid on building materials and fixtures; or
 - If sales tax is collected from the customer on building materials and fixtures
- Audits will be conducted based on the default option or option chosen. If an option is not chosen, default = Option 1.

Contractor Option Transactions

Contractor Option Transactions

- Retail sales (TPP & taxable services)
 - Taxable at rate in effect where delivery occurs
- Contractor labor (Not taxable)
- Nontaxable services

Option 1 Contractor

- Transactions with the supplier
 - Purchases building materials and fixtures for resale.
 - Must give Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.
- Transactions with the customer
 - Does not collect sales tax on separately stated labor charges.
 - Must collect sales tax on separately stated charges for building materials and fixtures.
 - If charges for building materials and labor are not separately stated, the entire amount is taxable.


Option 2 Contractor

- Transactions with the supplier
 - Pays sales or use tax on purchases of building materials and fixtures.
- Transactions with the customer
 - Does not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Option 3 Contractor

- Transactions with the supplier
 - Purchases building materials and fixtures tax-free.
 - Must give Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.
- Transactions with the customer
 - Must remit use tax at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
 - Does not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Form 13, Section C, Block 1

 Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption <small>• Read instructions on reverse side/see note below</small>		FORM 13	
NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER	
Name _____		Name _____	
Street or Other Mailing Address _____		Street or Other Mailing Address _____	
City _____	State _____	City _____	State _____
Zip Code _____		Zip Code _____	
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.			
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)			
SECTION A — Nebraska Resale Certificate			
Description of Item or Service Purchased _____			
I hereby certify that the purchase, lease, or rental of _____ from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold.			
I further certify that we are engaged in business as a: <input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Lessor of _____ Description of Product Sold, Leased, or Rented			
and hold Nebraska Sales Tax Permit Number 01- _____		If None, State Reason _____	
or Foreign State Sales Tax Number _____		State _____	
SECTION B — Nebraska Exempt Sale Certificate			
The basis for this exemption is exemption category _____ (Insert appropriate category as described on reverse of this form.)			
If exemption category 2 or 5 is claimed, enter the following information:			
Description of Item(s) Purchased _____		Intended Use of Item(s) Purchased _____	
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05- _____			
If exemption category 6 is claimed, seller must enter the following information and sign this form below:			
Description of Item(s) Sold _____	Date of Seller's Original Purchase _____	Was Tax Paid when Purchased by Seller? <input type="checkbox"/> YES <input type="checkbox"/> NO	Was Item Depreciable? <input type="checkbox"/> YES <input type="checkbox"/> NO
SECTION C — For Contractors Only			
1. Purchases of Building Materials or Fixtures:			
<input type="checkbox"/> As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01- _____			
2. Purchases Made Under Purchasing Agent Appointment on behalf of _____ (exempt entity): <input type="checkbox"/> Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.			
<small>Any purchaser, or their agent, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Neb. Rev. Stat. §§77-2701 through 77-27,135, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, this penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.</small>			
sign here _____ Authorized Signature		_____	_____
		Title	Date

Important Contractor Reminder!

Building materials do not include tools, equipment, or services that do not become annexed to real estate.

Contractors must pay sales and use tax on purchases of these items!

- Use tax is due when an Option 2 contractor purchases:
 - Building materials or fixtures picked up in another state
 - Building materials or fixtures delivered to the job site by a supplier who does not charge sales tax
- Use tax is due when on an Option 3 contractor withdraws building materials and fixtures out of inventory.
- Use tax is due when any contractor withdraws tax-free inventory for business or personal use.
 - Dry wall contractor repairs his own home
 - Plumbing contractor installs a new faucet in the office restroom

Landscapers

- Retail Sales
 - Live plants including sod
 - Labor charges to plant them
 - Pest control services (ex. grub control)
- Contractor Labor
 - Building or repairing retaining walls
 - Adding dirt for berms, or fountains in ponds
 - Installing and repairing underground sprinkler systems
- Nontaxable Services
 - Lawn mowing, fertilizing, or snow removal

Building Cleaning and Pest Control Services

- These services are not “contractor labor”, so are taxable (even when performed at the construction site).
- Contractors must pay sales tax on purchases of these services, even if the project owner is an exempt entity.

Example: Termite treatment, or a 3rd party crew hired to clean up inside a building.

Contracts with Exempt Entities

How do I know if the project owner is an exempt entity?

- [Governmental Entity information guide](#) ([Reg-1-093](#))
- [Nonprofit information guide](#) ([Reg-1-090](#))
- Nonprofit Healthcare Facilities ([Reg-1-090](#))
- [Contact the Department](#)

Reminder: Not all nonprofits or governmental units are exempt from sales tax!

Be sure to get a Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, [Form 17](#).

Form 17 supports why tax was not paid or collected on building materials and fixtures for construction projects for exempt entities.

Option 1 Prime Contractors

- Receive [Form 17](#) and [Form 13](#) from project owner prior to the start of the project.
- Complete the Delegation of Prime Contractor's Authority portion of the Form 17.
- Complete a Form 13 and provide it with a copy of the Form 17 to Option 1 subcontractors.
- Provide copies of the Form 17 to any Option 2 or 3 subcontractors on the project so they can buy building materials and fixtures sales tax exempt.

Option 2 and 3 Prime Contractors

- Complete a [Form 13](#) and provide it with a copy of the [Form 17](#) to Option 1 subcontractors.
- Provide copies of the Form 17 to any Option 2 or 3 subcontractors on the project so they can buy building materials and fixtures sales tax exempt.

Form 17



Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax

FORM
17

PURCHASING AGENT APPOINTMENT			
Name and Address of Prime Contractor		Name and Address of Governmental Unit or Exempt Organization	
Name		Name	
Street or Other Mailing Address		Street or Other Mailing Address	
City	State	Zip Code	City
			State
			Zip Code
Name and Location of Project		Appointment Information	
Name		Effective Date (see Instructions)	
Street or Other Mailing Address		Expiration Date	
City	State	Zip Code	Nebraska Exemption Number (Exempt Organizations Only)
Identify Project			

The undersigned governmental unit or exempt organization appoints the above-named contractor and the contractor's delegated subcontractors as its agent to purchase and pay for building materials that will be annexed to real estate by them into the tax exempt construction project stated above.

sign
here

Authorized Signature of Governmental Unit or Exempt Organization

Title

Date

DELEGATION OF PRIME CONTRACTOR'S AUTHORITY			
Name and Address of Subcontractor		Delegation Information	
Name		Effective Date	
Street or Other Mailing Address		Expiration Date	
City	State	Zip Code	Portion of Project

The undersigned prime contractor hereby delegates authority to act as the purchasing agent of the named governmental unit or exempt organization to the above-named subcontractor.

sign
here

Signature of Prime Contractor or Authorized Representative

Title

Date

Option 1 Subcontractors

- Purchase building materials & fixtures sales tax exempt by giving [Form 13](#), Section C, Block 1 to their Nebraska supplier.
- Do not collect sales tax on items when they obtain a properly completed [Form 17](#) and Form 13 prior to the start of the project.

Option 2 Subcontractors

- Purchase building materials and fixtures sales tax exempt by giving –
 - A copy of [Form 17](#), and
 - [Form 13](#), Section C, Block 2 to their Nebraska supplier.

Option 3 Subcontractors

- Purchase building materials & fixtures sales tax exempt by giving [Form 13](#), Section C, Block 1 to their Nebraska supplier.
- Do not owe use tax on items when they obtain a properly completed [Form 17](#) prior to the start of the project.

Form 17 For All Contractors

- Only building materials and fixtures that become annexed to real estate may be purchased sales tax exempt.
- Contractors must pay sales or use tax on all purchases or rentals of equipment, tools, and taxable services used to complete the project.

Refunds on Sales and Use Taxes Paid on Exempt Projects

- If a [Form 17](#) is issued to the contractor prior to the contractor annexing building materials, the contractor can request a refund.
- If a [Form 17](#) is not issued to the contractor in a timely manner, only the project owner can request a refund.
- The following are not allowed a refund:
 - United States Government;
 - Nebraska University; and
 - Nebraska State College;
 - State of Nebraska.

Routine, On-call Repairs for Exempt Entities

- Contractors who are on-call for exempt entities may obtain a [Form 17](#) for routine, on-call repair.
 - There must be a written agreement.
 - Form 17 is good for up to one year.
 - Option 1 contractors must also obtain a [Form 13](#).

Building Materials and Fixtures for a Job Site Outside Nebraska

Option 1

No Nebraska sales or use tax liability

- When withdrawing building materials and fixtures from tax-free inventory
- When building materials and fixtures are annexed to real estate in the other state.

Option 2

No Nebraska sales tax credit or refund

- When withdrawing building materials and fixtures from tax-paid inventory.
- Credit for sales tax paid may be available from the other state.
- They may have the supplier deliver materials to the job site out-of-state and pay no Nebraska sales or use tax.

Option 3

Remits use tax to Nebraska

- When withdrawing building materials and fixtures from tax-free inventory.
- At the rate in effect at the time and place inventory is withdrawn.
- They may have the supplier deliver materials to the job site out-of- state and pay no Nebraska use tax.

Repair or Annexation of Exempt Manufacturing Machinery and Equipment (MME)

- When work on MME involves charges for contractor labor:
 - Contractor labor is sales tax exempt; and
 - The contractor option chosen determines the taxability of purchases of MME, or any repair parts.

Option 1

- Obtains [Form 13](#), Section B, Category 5 from the manufacturer.
- May purchase MME sales tax exempt.
- Does not collect sales tax on MME, provided a completed Form 13 is received from the manufacturer.

Form 13, Section B

Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption <small>• Read instructions on reverse side/see note below</small>		FORM 13
NAME AND MAILING ADDRESS OF PURCHASER		
Name _____		
Street or Other Mailing Address _____		
City _____	State _____	Zip Code _____
NAME AND MAILING ADDRESS OF SELLER		
Name _____		
Street or Other Mailing Address _____		
City _____	State _____	Zip Code _____
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.		
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:		
Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)		
SECTION A—Nebraska Resale Certificate		
Description of Item or Service Purchased _____		
I hereby certify that the purchase, lease, or rental of _____ from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold.		
I further certify that we are engaged in business as a: <input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Lessor of _____ Description of Product Sold, Leased, or Rented		
and hold Nebraska Sales Tax Permit Number 01- _____ If None, State Reason _____		
or Foreign State Sales Tax Number _____ State _____		
SECTION B—Nebraska Exempt Sale Certificate		
The basis for this exemption is exemption category _____ (Insert appropriate category as described on reverse of this form.)		
If exemption category 2 or 5 is claimed, enter the following information:		
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sign here	_____ Authorized Signature	_____ Title
_____ Date		_____ Date

Options 2 and 3

- These contractors owe sales or use tax on MME and on parts purchased and annexed to manufacturer's real estate.
- Cannot accept a Form 13, Section B, Category 5 from the manufacturer.
- But, a manufacturer can purchase MME sales tax exempt directly from a 3rd party vendor.

Agenda Summary

- Overview of Sales and Use Tax
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**Let us know what you think.
Please turn in your evaluation!**

Thank You!

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